

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1044

To amend part E of title IV of the Social Security Act to prevent abandoned babies from experiencing prolonged foster care where a permanent adoptive home is available.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 1995

Mr. FAWELL (for himself, Mr. VISCLOSKY, and Ms. PRYCE) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend part E of title IV of the Social Security Act to prevent abandoned babies from experiencing prolonged foster care where a permanent adoptive home is available.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “At-Birth Abandoned  
5       Baby Act of 1995”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds that—

1           (1) each year thousands of babies throughout  
2           the United States are abandoned by their parents  
3           shortly after birth, such as when a mother gives  
4           birth at a hospital under an assumed name and ad-  
5           dress and then disappears afterwards, leaving the  
6           baby behind, when the whereabouts of the parents  
7           are unknown, and when babies are left to die in gar-  
8           bage dumpsters because their mothers cannot care  
9           for them;

10          (2) babies who are abandoned during the form-  
11          ative months occurring shortly after birth are denied  
12          the ability to bond with a loving parent or parents;

13          (3) the process of attachment or bonding be-  
14          tween a baby and the same adults is essential to the  
15          development of a healthy personality in the baby;

16          (4) the Inspector General of the Department of  
17          Health and Human Services, in the February 1990  
18          report entitled “Crack Babies”, states that legisla-  
19          tion “should reduce barriers to placing drug exposed  
20          infants into foster care and adoptive homes and es-  
21          tablish ‘fast track’ procedures to expedite child wel-  
22          fare cases involving drug abuse”; and

23          (5) according to experts, current legal rules and  
24          agency policies make it exceedingly difficult and time  
25          consuming to terminate parental rights of those par-

1       ents who truly abandon their babies, and as a result  
2       very few of those abandoned babies are available for  
3       adoption;

4           (6) the welfare of babies abandoned during the  
5       formative months occurring shortly after birth is of  
6       such special interest and concern to our society that  
7       if there are persons desiring to adopt and parentally  
8       bond with such a baby, the baby should be afforded  
9       the right to expeditious placement with, and adop-  
10      tion by, such persons; and

11          (7) other steps should be taken to expedite the  
12      adoption of babies who are abandoned during the  
13      formative months occurring shortly after birth.

14   **SEC. 3. PURPOSE.**

15      The purpose of this Act is to require States to imple-  
16   ment a system that will expedite the initiation of the adop-  
17   tion process for babies abandoned at birth. In doing so,  
18   States shall appoint competent persons to be preadoptive  
19   parents for babies abandoned at birth in order to provide  
20   a proper and loving home during the infants' formative  
21   months. The preadoptive parents will also be responsible  
22   for initiating legal proceedings that could lead to the legal  
23   adoption of the infant. Once the proceedings have been  
24   initiated, the State courts of proper jurisdiction will con-  
25   tinue to be responsible for the final decision, taking into

1 account the legal rights of all the parties involved, includ-  
2 ing the baby abandoned at birth, the natural parents, the  
3 preadoptive parents, and the State.

4 **SEC. 4. ADOPTION BY PREADOPTIVE PARENTS OF BABIES**  
5 **ABANDONED AT BIRTH.**

6 (a) CERTAIN STATE LAWS REQUIRED AS CONDITION  
7 OF APPROVING STATE PLAN FOR FOSTER CARE AND  
8 ADOPTION ASSISTANCE.—

9 (1) IN GENERAL.—Section 471 of the Social  
10 Security Act (42 U.S.C. 671) is amended by adding  
11 at the end the following:

12 “(c)(1) The Secretary shall not approve a State plan  
13 under this part unless there is in effect in the State laws  
14 and rules of law which provide all of the following:

15 “(A) Within 30 days after the State obtains  
16 custody of a baby abandoned at birth, the State  
17 shall—

18 “(i) find 1 or more individuals to be the  
19 preadoptive parents of the baby;

20 “(ii) designate such individual or individ-  
21 uals as the preadoptive parents of the baby; and

22 “(iii) place the baby with such individual  
23 or individuals.

24 “(B)(i) During the 90-day period beginning on  
25 the date a baby abandoned at birth is placed with

1 the preadoptive parents of the baby, the preadoptive  
2 parents shall have the right to petition the courts of  
3 the State for an expedited hearing—

4 “(I) to terminate the parental rights of all  
5 other persons with respect to the baby; and

6 “(II) to become the adoptive parents of the  
7 baby.

8 “(ii) In determining whether to grant a petition  
9 described in clause (i), the courts of the State shall  
10 not draw any inference adverse to the interests of a  
11 petitioner by reason of the present or former status  
12 of any petitioner as a foster parent.

13 “(C) If the preadoptive parents of a baby aban-  
14 doned at birth fail to file a petition described in sub-  
15 paragraph (B)(i) during the 90-day period described  
16 in subparagraph (B)(i), the State shall—

17 “(i) immediately revoke their designation  
18 as the preadoptive parents of the baby; and

19 “(ii) within 30 days after the end of such  
20 90-day period—

21 “(I) find 1 or more individuals (other  
22 than the former preadoptive parents of the  
23 baby) to be the new preadoptive parents of  
24 the baby;

1 “(II) designate such individual or in-  
2 dividuals as the preadoptive parents of the  
3 baby; and

4 “(III) place the baby with such indi-  
5 vidual or individuals.

6 “(2) As used in this subsection:

7 “(A) The term ‘baby abandoned at birth’ means  
8 a child who—

9 “(i) has been physically abandoned by the  
10 parents or legal guardians of the child for a  
11 time during the critical period; and

12 “(ii) has not attained the age of 18  
13 months.

14 “(B) The term ‘critical period’ means, with re-  
15 spect to a child, the period beginning with the date  
16 the child is born and ending with—

17 “(i) a date which may be specified by State  
18 law, if such date occurs not earlier than 3  
19 months, and not later than 6 months, after the  
20 date the child is born; or

21 “(ii) the date the child attains the age of  
22 6 months, if State law fails to specify a date in  
23 accordance with clause (i).

24 “(3) The provisions and rules of State law that are  
25 enacted or adopted pursuant to this subsection shall not

1 be construed to affect any provision or rule of State law  
2 with respect to the abandonment of children that is not  
3 so enacted or adopted, except to the extent that such pro-  
4 visions or rules of State law are in direct conflict.”.

5 (2) CONFORMING AMENDMENT.—Section  
6 471(b) of such Act (42 U.S.C. 671(b)) is amended  
7 by striking “the provisions of subsection (a) of this  
8 section” and inserting “subsections (a) and (c)”.

9 (b) BABIES ABANDONED AT BIRTH TREATED AS  
10 CHILDREN WITH SPECIAL NEEDS FOR PURPOSES OF  
11 ADOPTION ASSISTANCE PROGRAM.—

12 (1) IN GENERAL.—Section 473 of such Act (42  
13 U.S.C. 673) is amended by adding at the end the  
14 following:

15 “(d) Notwithstanding subsection (c), for purposes of  
16 this section, a child who is or was a baby abandoned at  
17 birth (as defined in section 471(c)(2)(A)) shall be consid-  
18 ered a child with special needs.”.

19 (2) APPLICABILITY.—The amendment made by  
20 paragraph (1) shall not apply to any child who at-  
21 tains the age of 18 months before the date of the  
22 enactment of this Act.

23 **SEC. 5. EFFECTIVE DATE.**

24 (a) IN GENERAL.—Except as provided in subsection  
25 (b), the amendments made by this Act shall apply to pay-

1 ments under title IV of the Social Security Act for cal-  
2 endar quarters beginning after the calendar quarter in  
3 which this Act is enacted.

4 (b) DELAY PERMITTED IF STATE LEGISLATION RE-  
5 QUIRED.—In the case of a State plan approved under title  
6 IV of the Social Security Act which the Secretary of  
7 Health and Human Services determines requires State  
8 legislation (other than legislation appropriating funds) in  
9 order for the plan to meet the additional requirements im-  
10 posed by the amendments made by this Act, the State plan  
11 shall not be regarded as failing to comply with the require-  
12 ments of such part solely on the basis of the failure of  
13 the plan to meet such additional requirements before the  
14 1st day of the 1st calendar quarter beginning after the  
15 close of the 1st regular session of the State legislature that  
16 begins after the date of the enactment of this Act. For  
17 purposes of the previous sentence, in the case of a State  
18 that has a 2-year legislative session, each year of such ses-  
19 sion shall be deemed to be a separate regular session of  
20 the State legislature.

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